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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/022,490	12/18/2001	Shin Gakuji	71360-56819	2792
21874	7590	12/10/2003	EXAMINER	
EDWARDS & ANGELL, LLP			NOLAN, SANDRA M	
P.O. BOX 9169			ART UNIT	
BOSTON, MA 02209			PAPER NUMBER	

1772

DATE MAILED: 12/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/022,490	<b>Applicant(s)</b> GAKUJI ET AL.	
	<b>Examiner</b> Sandra M. Nolan	<b>Art Unit</b> 1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 September 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All   b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>6</u> . | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Claims***

1. Pursuant to any amendments thereto in the response dated 22 September 2003 (Paper No. 8), claims 1-20 are pending.

### ***Information Disclosure Statement***

2. The examiner has considered the information disclosure statement (IDS) submitted on 04 August 2003 (Paper No. 6).

### ***Specification***

3. The objection to the abstract has been overcome by the submission of a new abstract in Paper No. 8.

### ***Rejection Withdrawn***

4. The 35 USC 112 rejection of claims 1-20 for indefiniteness is withdrawn in view of applicants' arguments on page 4 of Paper No. 8.

### ***Rejections Maintained***

5. The 35 USC 103 rejection of claims 1-6, 8-14, 17 and 19 as unpatentable over Wouters (US 6,372,847), as set out in section 8 of the 29 May 2003 office action (Paper No. 5), is maintained for reasons of record.

The 35 USC 103 rejection of claims 7 and 15-16 as unpatentable over Wouters in view of Oda (US 6,045,152), as expressed in section 9 of Paper No. 5, is maintained for reasons of record.

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The 35 USC 103 rejection of claims 18 and 20 as unpatentable over Wouters in view of Sato et al (US 6,210,797), as recited in section 10 of Paper No. 5, is maintained for reasons of record.

***Response to Arguments***

6. Applicant's arguments filed in Paper No. 8 have been fully considered but they are not persuasive. They will be responded to in the order in which they were presented.

On pages 5 through 9 of Paper No. 8, applicants argue that the invention resides in the use of a sequentially copolymerized olefin-based elastomer (A) whose eluate at 0°C falls within the 30 to 60% range for a temperature rising elution fractionation using o-dichlorobenzene solvent. Using several pages of discussion, applicants stress that the table at page 8 of Paper No. 8 demonstrates that this eluate limitation is an important one.

However, the arguments re: A's eluate limitation is not convincing. The table appears to show that Comparative Ex. 2, which uses a mixture of ethylene and propylene copolymers, instead of the sequential copolymer has almost the same properties as the sequential copolymer claimed. In other words, the eluate limitation has not been shown to be critical and Wouters' copolymer mixtures are suggestive of the claimed compositions and housing covers.

The examiner notes that the releasing properties of the mixture used in Comparative Ex. 2 appear to be inferior to those of the sequential copolymers of the other two samples in the table.

However, the releasing properties would be expected and are, therefore, latent properties of the Wouters mixtures. See MPEP 2145(II).

The discussion of the references on pages 10-13 appears to center on the fact that the Wouters compositions do not have the eluate feature of claims 1, 19 and 20.

However, as has been stated above, the eluate properties do not appear to be critical based on the record now before the examiner.

Furthermore, applicants are arguing that their housing covers have "numerous mechanical benefits" (quoted from the last paragraph on page 11 of Paper No. 8) that are not claimed. Such arguments are not persuasive. See MPEP 2145(VI).

#### ***Final Rejection***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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***Conclusion***

Any inquiry concerning this communication should be directed to the Examiner, Sandra M. Nolan, whose telephone number is 703/308-9545. The Examiner can normally be reached on Monday through Thursday, from 6:30 am to 4:00 pm, Eastern Time.

If attempts to reach the Examiner by telephone are unsuccessful, her supervisor, Harold Pyon, can be reached at 703/308-4251. The general fax number for the art unit is 703/872-9306. The receptionist answers 703/308-0661.



S. M. Nolan  
Patent Examiner  
Technology Center 1700

SMN/smn  
10022490(9)  
08 December 2003